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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/728,242	12/01/2000	Christopher Cosgrove Creagan	13451	2514

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EXAMINER

WEBB, JAMISUE A

ART UNIT

PAPER NUMBER

3761

DATE MAILED: 11/27/2001

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/728,242

Applicant(s)

CREAGAN ET AL.

Examiner

Jamisue A. Webb

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 3,4.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Specification

- a. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

The following is a quotation of 37 CFR 1.71(a)-(c):

- (a) The specification must include a written description of the invention or discovery and of the manner and process of making and using the same, and is required to be in such full, clear, concise, and exact terms as to enable any person skilled in the art or science to which the invention or discovery appertains, or with which it is most nearly connected, to make and use the same.
- (b) The specification must set forth the precise invention for which a patent is solicited, in such manner as to distinguish it from other inventions and from what is old. It must describe completely a specific embodiment of the process, machine, manufacture, composition of matter or improvement invented, and must explain the mode of operation or principle whenever applicable. The best mode contemplated by the inventor of carrying out his invention must be set forth.
- (c) In the case of an improvement, the specification must particularly point out the part or parts of the process, machine, manufacture, or composition of matter to which the improvement relates, and the description should be confined to the specific improvement and to such parts as necessarily cooperate with it or as may be necessary to a complete understanding or description of it.

The specification is objected to under 37 CFR 1.71 because the specification fails to provide an adequate description of the invention. The applicant has not disclosed what materials are used and the method used to make the elastic fibers.

Claim Rejections - 35 USC § 112

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claim 3 is rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled

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in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The specification fails to disclose that the thermoplastic fibers are elastic fibers, the specification does not disclose what material the elastic fibers are made of, and what constitutes the fibers being elastic.

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claim 11 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

5. Claim 11 recites "the material which expands at least about 50%". This claim is dependent on Claim 1, and claim 1 has not recited the material expanding at least 50%, therefore it is unclear if the applicant is meaning to positively claiming the material expands 50%, the examiner suggest deleting the word "which".

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various

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claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

8. Claim 1, 2, 4-8, and 11-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jackson et al. (5,350,370) in view of Mukaida et al. (5,672,419).

9. With respect to Claims 1, 2, 4-6, and 16-20: Jackson discloses the use of an absorbent material that comprises 50-90 percent superabsorbent, and the material being compressed to form a density of about 0.1 to 0.5 grams per cubic centimeter (see abstract). Jackson also discloses the material being swellable when wet (column 6, line 44).

10. Jackson discloses the use of 3-30 % of pulp fiber, however, does not disclose that the absorbent material comprises a crimped thermoplastic fiber. Mukaida discloses a fibrous material can be in staple form (which the examiner considers to be a crimped form). Mukaida also shows that organic synthetic fiber such as bicomponent fibers in a side by side arrangement and made of polyvinyl alcohol and polyethylene or polypropylene, is an equivalent structure known in the art (see column 5, lines 11-35). Therefore, because the pulp fibers and bicomponent fibers were art-recognized equivalents at the time the invention was made, one of ordinary skill in the art would have found it obvious to substitute the organic bicomponent fiber for the pulp fiber.

11. With respect to Claim 7 and 8: Jackson discloses the use of adhesive sprays as a binder (column 6, line 21).

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12. With respect to Claim 12-15: Jackson discloses the absorbent material to be of use in diapers, training pants, incontinence garments, sanitary napkins, bandages and the like (see column 3, lines 9-11).

13. With respect to Claim 11: Jackson discloses that the superabsorbent material swells but does not disclose the material swelling 50%. It would have been an obvious matter of design choice to have to absorbent material swell 50%, since applicant has not disclosed that the 50% swell solves any stated problem, or is for any particular purpose and it appears that the invention would perform equally well with the absorbent material of Jackson and Mukaida.

14. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Jackson and Mukaida as applied to claim 1 above, and further in view of Pike et al. (5,382,400).

15. Jackson and Mukaida fail to teach the crimped thermoplastic fibers, being mechanically crimped. Pike discloses the use of helically crimping fibers used in non-woven webs using a process that involves heating to activate the crimp (See abstract and column 3, lines 27-52). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have the crimped fibers of Jackson and Mukaida, be helically crimped using the process of Pike, in order to provide the non-woven web with desirable combinations of physical properties such as softness and strength. (see Pike, column 3).

16. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Jackson and Mukaida as applied to claim 1 above, and further in view of Tsai et al. (5,401,446).

17. Jackson and Mukaida, fail to teach the absorbent material having an electret charge. Tsai discloses a method of electrostatically charging a web by subjecting the web to an electric field,

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and to where the polarity of the field is reversed, relative to the web. (see abstract). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have absorbent material of Jackson and Mukaida, have the electret charge, as disclosed by Tsai, in order to make the web bipolar, and therefore show high filtering efficiency. (See Tsai column 4).

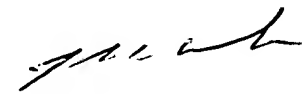
Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jamisue A. Webb whose telephone number is (703) 308-8579. The examiner can normally be reached on M-F (8:30 - 5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John G. Weiss can be reached on (703) 308-2702. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-3590 for regular communications and (703) 306-4520 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.

jaw 
November 13, 2001


John G. Weiss
Supervisory Patent Examiner
Group 3700

Attachment for PTO-948 (Rev. 03/01, or earlier)
6/18/01

The below text replaces the pre-printed text under the heading, "Information on How to Effect Drawing Changes," on the back of the PTO-948 (Rev. 03/01, or earlier) form.

INFORMATION ON HOW TO EFFECT DRAWING CHANGES

1. Correction of Informalities -- 37 CFR 1.85

New corrected drawings must be filed with the changes incorporated therein. Identifying indicia, if provided, should include the title of the invention, inventor's name, and application number, or docket number (if any) if an application number has not been assigned to the application. If this information is provided, it must be placed on the front of each sheet and centered within the top margin. If corrected drawings are required in a Notice of Allowability (PTOL-37), the new drawings **MUST** be filed within the **THREE MONTH** shortened statutory period set for reply in the Notice of Allowability. Extensions of time may **NOT** be obtained under the provisions of 37 CFR 1.136(a) or (b) for filing the corrected drawings after the mailing of a Notice of Allowability. The drawings should be filed as a separate paper with a transmittal letter addressed to the Official Draftsperson.

2. Corrections other than Informalities Noted by Draftsperson on form PTO-948.

All changes to the drawings, other than informalities noted by the Draftsperson, **MUST** be made in the same manner as above except that, normally, a highlighted (preferably red ink) sketch of the changes to be incorporated into the new drawings **MUST** be approved by the examiner before the application will be allowed. No changes will be permitted to be made other than correction of informalities, unless the examiner has approved the proposed changes.

Timing of Corrections

Applicant is required to submit the drawing corrections within the time period set in the attached Office communication. See 37 CFR 1.85(a).

Failure to take corrective action within the set period will result in **ABANDONMENT** of the application.